IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6420 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHA R SHIVDASANI

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MR RR MARSHALL for Petitioner

MS MANISHA LAVKUMAR, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/2000

ORAL JUDGEMENT

1. Having heard the learned counsel for the parties, I am satisfied that this petition filed by the petitioner directly against the impugned order under which she was removed from the services without first availing the remedy of appeal available under the provisions of the

Gujarat Civil Services (Discipline and Appeal) Rules, 1971 is not maintainable.

2. It is true that limitation for filing of appeal is 45 days and this petition has not been filed within 45 days from the date of impugned order but power vests with the appellate authority to condone the delay if any occurred in filing of the appeal.

3. As a result of the aforesaid discussion, this petition is dismissed on the ground that the petitioner has to first file an appeal against the impugned order before the appellate authority. The appellate authority, in case, the appeal is filed by the petitioner within a period of 15 days from the date of receipt of certified copy of this order may not dismiss the same on the ground of limitation and decide the same on merits. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

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